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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO. 913 OF 2013

IN

SUIT NO. 3166 OF 2001

Johna Mary Peter Galbano & Anr.	...Applicants
In the matter between	
Harbans Singh Sethi	...Plaintiff
VS	
MHADA & Ors.	...Defendants

WITH

CHAMBER SUMMONS NO.815 OF 2013

NOTICE OF MOTION NO.913 OF 2013

IN

SUIT NO. 3166 OF 2001

Smt Nathal Leo Jacinto & Ors.	...Applicants
In the matter between	
Harbans Singh Sethi	...Plaintiff
VS	
MHADA & Ors.	...Defendants

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Mr J.M.D'silva for the Applicant.

Mr Mayur Khandeparkar a/w Z.A.Jariwala i/b M/s Thakore Jariwala & Associates
for Defendant Nos.1 and 2.

Ms Aparna Murlidharan i/b P.G.Lad for Applicant No.1.

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CORAM : S.C. GUPTE, J.

NOVEMBER 19, 2015

P.C. :

Chamber Summons No.815 of 2013 is taken out by the Applicants for amending the Notice of Motion by deleting the name of the Plaintiff and impleading the Respondents as his legal heirs and make consequential changes in the Notice of Motion. The Plaintiff has expired on 28 October 2007. It is the case of the Applicants that Respondent No.1 by his letter dated 11 July 2013 informed the Applicants about death of the deceased and, accordingly, the Applicants have taken out the present Chamber Summons within the period of

limitation. In any event, the Applicants also pray that delay, if any, be condoned and the Chamber Summons be allowed.

2 This Chamber Summons is opposed by the Respondents on the ground that the Applicants were already intimated about the death of the Plaintiff by the Respondents' Advocate's letter dated 11 October 2012. It is submitted that despite knowledge of his death, the Notice of Motion has been taken out by the Applicants against the deceased Plaintiff. This Court is inclined to condone the delay in taking out the present Chamber Summons for amendment of the Notice of Motion. Chamber Summons No.815 of 2013 is made absolute in terms of prayer clauses (a) and (b). All issues raised by the Respondents concerning both maintainability of the Motion against the deceased Plaintiff despite knowledge of his death and also the bar of limitation concerning Notice of Motion, are kept open. It is also clarified that the objections of the Respondents to the maintainability of the Notice of Motion on the ground that the Applicants have already filed a suit against the Respondents herein, are also kept open. The Applicants shall amend the Motion within a period of two weeks from today. The Applicants are also permitted to add two more persons as legal heirs of the deceased Plaintiff, namely, Smt Mohinder Kaur Sethi and Harvinder Singh Sethi, in addition to the Respondents herein. Place the Motion for hearing on 8 December 2015.

(S.C.GUPTE J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/ Order.